

DELEGATED ASSESSMENT

Application no: PA/2021/1652

Proposal: Planning permission to construct 2 wildlife habitat ponds to enhance the population of Great Crested Newts

Location: Fields to the rear of King Edward Street, Belton, Haxey

Applicant: Mr Steve Greenwood

Officer: Jennifer Ashworth

POLICY **Core Strategy (2011)** – CS1: Spatial Strategy for North Lincolnshire, CS2: Delivering More Sustainable Development, CS3: Development Limits, CS5: Delivering Quality Design in North Lincolnshire, CS6: Historic Environment, CS 16 North Lincolnshire’s Landscape, Greenscape and waterscape, CS17: Biodiversity, CS19: Flood Risk

Saved Policies of the Local Plan (2003) – DS1: General Requirements, RD2: Development in the Open Countryside, LC5: Species Protection, LC6: Habitat Creation, LC7: Landscape protection, LC12: Protection of Trees, Woodland and Hedgerows, LC14: Areas of special Historic Landscape Interest

Housing and Employment Land Allocations DPD (2016) - The site is located outside the defined development limits within the open countryside and covered by Policy LC14 within the Proposals Map Insert 08 - Belton Westgate & Carrhouse



NPPF – Section 11, 14 and 15

Supplementary Planning Guidance: SPG Design in the Countryside

CONSULTATIONS

Highways: Consulted but no comments provided

IANN Water Level Management Board – The following comments are made:

The site is within the Isle of Axholme and North Nottinghamshire Water Level Management Board district.

The Board maintained Stealgoose Drain, an open watercourse, exists to the Eastern boundary of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies.

The Board's consent is required to erect any building or structure (including walls and fences), whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the top edge of any Board maintained watercourse or the edge of any Board maintained culvert.

The erection or alteration of any mill dam, weir or other like obstruction to the flow, or erection or alteration of any culvert, whether temporary or permanent, within the channel of a riparian watercourse will require the Board's prior written consent. The Board's Planning and Byelaw Policy, Advice Notes and Application form is available on the website - www.wmc-idbs.org.uk/IOAANN

The Board's consent is required irrespective of any permission gained under the Town and Country Planning Act 1990. The Board's consent will only be granted where proposals are not detrimental to the flow or stability of the watercourse/culvert or the Board's machinery access to the watercourse/culvert which is required for annual maintenance, periodic improvement and emergency works.

Following receipt of the Detailed Drainage Report submitted by the applicant, the Board confirmed:

"I submitted formal comment on 24th Jan essentially covering the need for a consent from the Board should the ponds be integrated into the riparian system of watercourses. However, looking at the submitted document this does not appear to be the case here and as such I can advise that the Board have no further comments or objections to make on the application".

LLFA Drainage Board: Initial Comment dated 13 January 2022 was made prior to understanding this was now a retrospective application – The team has no Objection but requested a drainage statement be conditioned. The applicant submitted a drainage statement and a response was received from the LLFA on 10/02/2022 stating that the submitted drainage statement is acceptable in that it identifies the risks associated with constructing ponds near to adjacent watercourses.

Informal Comments

1. Our records indicate that the proposed development site is bounded by an internal drainage board maintained watercourse (Stealgoose Drain) on the eastern boundary. An easement adjacent to the watercourse may need to be provided for future maintenance.
2. Alterations and/or connections into the watercourse must be consented by the local Internal Drainage Board through an Ordinary Watercourse Consent and appropriate discharge rates must be agreed. Compliance with this guidance is to ensure the free flow of surface water is maintained throughout the development.
3. There is always a risk associated with open bodies of water but not sure LLFA need to make the required comments on this occasion. The landowner needs to ensure these open bodies of water are appropriately signed and guarded. Perhaps discussions need to be had with the Councils ecologist and health and safety section with respect to the design & safety aspects. I assume there will have been necessary discussions about risk assessments and appropriate warning and safeguarding. The ponds are not hugely deep, but deep enough to constitute a risk.

Ecology: A request for comments was sent to the Ecology Team and subsequently chased, however, no comments have been provided.

PUBLICITY: A site notice has been displayed

LETTERS OF COMMENT: No letters of comment have been received

MATERIAL CONSIDERATIONS

Constraints and Allocation

- The site is located within the open countryside outside of any defined development limits. The site is located within an area of Area of Special Historic Landscape Interest, Policy LC14.
- The site is located within SFRA Flood Zone 1.
- Agricultural Land Classification - GRADE 2

- The site is located within 20m of a watercourse. Stealgoose Drain is located on the eastern boundary

Planning History

PA/2021/941 - Planning permission for change of use of land from agricultural to dog walking/exercise field and associated works - Full Planning Permission with conditions - 08/10/2021

Site Characteristics

The application site is within the open countryside and on the west side of Stealgoose Lane. The surrounding area is agricultural land used for agricultural rotation. The site is defined by a 1.2m high horse netting. An area of existing hard standing is present in the south-east corner of the site.

The application site is within a SFRA Flood Zone 1, is not within a Conservation Area, does not relate to any Listed buildings and there are no Tree Preservation Orders (TPO`s) within the vicinity. It is acknowledged the site lies within policy LC14 land which is an Area of Special Historic Landscape Interest.

Assessment

In assessing the acceptability of this proposal, the main considerations will be:

- The principle of development
- Landscape Impact, Design and Appearance
- Impact on residential amenity
- Ecology
- Flood Risk / Drainage

The Proposal

The submitted planning application seeks full planning permission for the construction of 2 wildlife habitat ponds specifically designed to encourage and enhance the local population of Great Crested Newts at locations described by the following grid references.

- SE 78837 07581
- SE 78802 07573

Each pond to be between 150msq and 300msq in size with an additional buffer area of 3m set aside around them. The deepest point will be 2m in depth rising gradually from the centre to the edge. Both ponds individually measure 12m x 15m.

Due to the constraints in place on Wildscapes for Natural England's District Level Licensing Scheme that North Lincolnshire Council signed up to, the ponds on this site

have already been constructed. Construction commenced on 12/01/22 and were completed on 14/01/22. Therefore, this application is now retrospective to regularise the development.

The constraints relate to the timeliness of the delivery of the ponds.

North Lincolnshire Council approved developments that are using the District Level Licensing Scheme to mitigate the loss of habitat for Great Crested Newts. Those developers have then made licensing and conservation payments to Natural England and the ponds. Wildscapes have been appointed as the delivery body for North Lincolnshire and are required to source and build the ponds that the developers have paid for within an agreed timescale. Having submitted the application for these ponds back in September of last year the applicant was running out of the constraint of time to deliver all of the ponds they have been commissioned to build so far. The planning process was significantly exceeding the amount of time that the applicant / agent anticipated it would take, as such they proceeded with the construction of the ponds and by default converted applications to retrospective planning applications.

Principle of Development

The land is located outside the development limits and is within open countryside and within LC14 Policy Area. As such policies C3, CS17, RD2, LC6 and LC14 need to be considered. There are currently no buildings on the site and no buildings are proposed as part of this change of use application.

Policy CS3 confirms that *“development outside defined boundaries will be restricted to that which is essential to the functioning of the countryside. This will include uses such as that related to agriculture, forestry or other uses which require a countryside location or that which will contribute to the sustainable development of the tourist industry”*. Development limits ensure that the countryside is protected from inappropriate development and no uncontrolled expansion of settlements.

Policy RD2 (Development in the Open Countryside) is applied. Policy RD2 states, development in the open countryside will be strictly controlled. The creation of wildlife ponds is appropriate for a countryside location, however, it does not fall within a category set out by Policy RD2. When considering the proposal against the criteria of Policy RD2, the development is considered appropriate and would not be detrimental to the character or appearance of the open countryside in terms of siting, scale, massing, design and use of materials and the development is considered to be sited to make best use of the existing and new landscaping.

The proposed ponds do not fall within the criteria for rural development however policy LC6 relates to Habitat creation and states:

“Provision will be made for the creation of nature reserves and new wildlife habitats both in rural and urban areas. Where appropriate, in granting planning permission, the creation of such areas will be required for the following types of development: i) in association with the reclamation of former mineral workings and waste disposal sites; ii) in association with schemes for derelict land clearance; iii) on land which is no longer required for long term agricultural use. Particular emphasis will be placed on the creation of habitats such as wet and dry heathland, wet woodland and reedbed in keeping with local and national biodiversity targets and provision of habitat for protected species”.

Policy CS17 promotes and supports wildlife enhancements that contribute to the habitat restoration targets set out in the North Lincolnshire’s Nature Map and in national, regional and local biodiversity action plans. The proposed development seeks to create a habitat for wildlife within the area.

Policy LC14 restricts development which would destroy, damage or adversely affect the character, appearance or setting of the historic landscape, or any of its Features. The proposal is for the creation of two wildlife ponds which seeks to enhance the setting of this area and encourage and support wildlife within the area.

The proposed development is considered to be inline with Policies LC6, LC14, RD2 and CS3 and therefore acceptable.

Landscape Impact, Design and Appearance

Policy DS1 of the North Lincolnshire Local Plan (Adopted May 2003) and policy CS5 of the Core Strategy (Adopted June 2011) are concerned with quality of design and amenity. In respect of impact on character, policy DS1 states; *“the design and external appearance of the proposal should reflect or enhance the character, appearance and setting of the immediate area”*. It continues to state *“ New development should incorporate appropriate landscaping and planting which enhances biodiversity or geological features whilst contributing to the creation of a network of linked greenspaces across the area.”* Policy LC14 states, development will not be permitted which would “destroy, damage or adversely affect the character, appearance or setting of the historic landscape, or any of its features and that design must be of a high standard.

Policy RD2 allows for certain development within the countryside subject to certain caveats. Paragraph ‘C’ states that the development would not be detrimental to the character or appearance of the open countryside or a nearby settlement in terms of siting, scale, massing, design and use of materials.

The proposal would be of a form that is considered appropriate to a countryside location. The site is heavily planted with trees and other vegetation and as such would be relatively low impact. The ponds will be 2m deep and 12m x 15m in size.

With regards to the use of materials on site;

- The bunding of the pond has been constructed using displaced spoil from the excavation works.
- The buffer zone will be left to return to natural grass and scrubland. A commitment to the maintenance of the ponds will require minimally invasive works to manage any overgrowth which may compromise the viability of the pond as a habitat for Great Crested Newts
- A hibernacula has been constructed on each pond which comprises rocks derived from the excavations or sourced near to the pond site and brash collected from adjacent hedgerows and trees.

It is considered the proposal would not prejudice the local area or the historic landscape. As such, the development would be in accordance with policies DS1, RD2, LC14, CS5 and CS6.

Impact on the amenity of neighbours

Policy DS1 of the North Lincolnshire Local Plan (Adopted May 2003) and policy CS5 of the Core Strategy (Adopted June 2011) are concerned with quality of design and amenity. In respect of impact on amenity, policy DS1 states; no unacceptable loss of amenity to neighbouring land uses should result in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing. There are several neighbouring residential properties to the south of the application site and views across the site can be achieved. The nature of the development is, however, considered to bring habitat and ecological benefits which in turn will enhance the provision within the area which will benefit both nature and the wider community. As mentioned above, the buffer zone around the ponds will be left to return to natural grass and scrubland. A hibernacula has been constructed on each pond which comprises rocks derived from the excavations or sourced near to the pond site and brash collected from adjacent hedgerows and trees. It is considered the proposed development will ultimately blend in with the countryside location and not lead to any significant impacts on the amenity of neighbours.

Given the proposals are for a large area of open water, the applicant should be aware of the potential safety issues and should erect appropriate signage warning of the dangers of open bodies of water.

It is considered the proposal would not prejudice neighbouring amenity. As such, the development would be in accordance with policies DS1, RD2 and CS5.

Drainage / Flood Risk

Policy CS19 is concerned with flooding it states that the council will support development proposals that avoid areas of current or future flood risk, and which do

not increase the risk of flooding elsewhere. The site is located within the lowest area of Flood Risk, SFRA Flood Zone 1 which is at low risk of flooding. The LLFA Drainage Team have been consulted and do not have any objections subject to the imposition of a planning condition and informatives (as set out earlier).

The proposed development site is bounded by an internal drainage board maintained watercourse (Stealgoose Drain) on the eastern boundary. The LLFA Drainage board have highlighted that an easement adjacent to the watercourse may need to be provided for future maintenance. Any alterations / or connections into the water course must be consented by the Local internal Drainage Board.

It is considered that with the inclusion of the above condition and informatives the scheme would be in accordance with Policy DS16 of the North Lincolnshire Councils Local Plan & Policies CS18 and CS19 of the North Lincolnshire Councils Core Strategy and paragraphs 155, 157, 163 & 165 of the NPPF

Ecology

Policy CS17 is concerned with Bio-diversity and forms part of the policy document to ensure that both conservation and enhancement of the districts bio-diversity is managed and maintained. Furthermore paragraph 9 of the NPPF seeks to achieve a 'net gain' for biodiversity whilst paragraph 118 sets out the principles for managing bio-diversity.

Great crested newts are a European protected species. The animals and their eggs, breeding sites and resting places are protected by law. Licences are available from Natural England for people planning an activity and can't avoid disturbing them or damaging their habitats (ponds and the land around ponds).

In the absence of feedback from the council's ecologist research has been undertaken. Great crested newt (*Triturus cristatus*) larvae are extremely vulnerable to predation by fish; *their eggs are also taken opportunistically. Predatory fish such as sticklebacks and perch are known to be particularly harmful. Larger species such as carp can have an additional impact by removing weed used as an egg-laying substrate by newts and stirring up sediment. Great crested newts may avoid breeding in ponds where some fish species are present and rely on the presence of nearby fish-free ponds to maintain the population. Fish may colonise ponds naturally, as well as being accidentally and deliberately introduced by people for angling or other purposes. Fish introduction has been identified in the UK Great Crested Newt Species Action Plan as a significant factor causing the decline and extinction of populations. To halt the decline and maintain the existing range and viability of great crested newt populations, fish should not be introduced into newt ponds. Furthermore, fish populations in newt ponds sometimes need to be eradicated; partial control is normally pointless, as fish numbers will subsequently increase.*

The ponds are for the purpose of wildlife and the creation of a habitat for Great Crested Newts. Based on the information above, at no time should the ponds be used for alternative uses such as fishing, fish farming, storage of fish or to address flood waters or drainage of the wider site. A condition is recommended to control the use of the ponds.

The council's ecologist has been consulted, however, no comments have been received. The applicant has confirmed that the ponds have been installed in accordance with Natural England's District Level Licensing Scheme and on that basis, I am satisfied that the necessary requirements have been addressed in terms of ecology. The applicant / agent has also confirmed a commitment to the maintenance of the ponds by the applicant that will include minimally invasive works to manage any overgrowth which may compromise the viability of the pond as a habitat for Great Crested Newts.

It is therefore considered that, subject to appropriately worded conditions, the proposal is in accordance with policy CS19 as well as paragraphs 9 and 118 of the NPPF.

Archaeology

Policy LC14 relates to the Area of Special Historic Landscape Interests. It states that within this area, development will not be permitted which would destroy, damage or adversely affect the character, appearance or setting of the historic landscape, or any of its features.

The site is located within Policy Area LC14. The councils HER officer has been consulted but has offered no objections to the proposal. Therefore, it is considered that the proposed scheme is in accordance with policy LC14 of the North Lincolnshire Local Plan.

Health & Safety

Given the proposal is for an open body of water, whilst it is not very deep, it still has the potential to pose a risk. The case officer raised this as a matter with the LLFA Drainage Team, following which the team responded with a suggested informative.

It is important that the landowner ensures these open bodies of water are appropriately signed and guarded. It is, however, considered necessary for a condition to be included that ensures health and safety measures are assessed, addressed, agreed in writing with the LPA and subsequently implemented. As this development is made retrospectively then this information will need to be submitted within 3 months of the date of the permission.

Conclusion

The proposal which is a water compatible development is an appropriate

development within the flood risk classification within which it sits. The development is therefore acceptable in principle and would display net gains for bio-diversity, carry no archaeology impacts and would improve the amenity experience of the existing site as well as for the wider community, whilst having no adverse impacts upon the character of the countryside.

RECOMMENDATION: Grant permission subject to conditions.